

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:10CR418
)	
vs.)	ORDER
)	
MATTHEW L. KOLACZOWSKI,)	
)	
Defendant.)	

This matter is before the court on the motion of defendant Matthew L. Kolaczowski (Kolaczowski) to continue trial scheduled for May 24, 2011 (Filing No. 45), and Mr. Kevin P. Bolger's motion to withdraw as the attorney for Kolaczowski (Filing No. 44). Kolaczowski is schedule for a leg amputation on May 16, 2011. As such, Kolaczowski will be unavailable for trial pending his rehabilitation. The motion to continue the trial (Filing No. 45) is granted and trial will be rescheduled following a report as to Kolaczowski's medical progress. Mr. Bolger's motion to withdraw as the attorney for Kolaczowski (Filing No. 44) will be held in abeyance pending further order of the court. Mr. Bolger shall report to the court as to Kolaczowski's medical progress on or before June 15, 2011.

The ends of justice have been served by granting the motion to continue and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 9, 2011, and June 15, 2011**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant is physically unable to stand trial. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(3)(B)(4).

IT IS SO ORDERED.

DATED this 9th day of May, 2011.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge